

SENATE BILL 1069  
By Haynes

AN ACT to amend Tennessee Code Annotated, Title 9, Chapter 8,  
relative to the Tennessee claims commission.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 9-8-307(d), is amended by deleting such subsection in its entirety and by substituting instead the following:

(d) No award shall be made unless the facts found by the commission would entitle the claimant to a judgment in an action at law if the state had been a private individual. The state is not liable for willful, malicious, or criminal acts by state employees or for acts on the part of state employees done for personal gain. The state may assert any and all defenses, including common law defenses, which would have been available to the officer or employee in an action against such an individual based upon the same occurrence. The state may assert any absolute common law immunities available to the officer or employee; provided, however, good faith common law immunity may not be asserted. If the claimant is successful with any claim filed with the claims commission after January 1, 1985, the state shall pay such interest as provided in § 47-14-121. In contract actions, interest may be awarded, but if the rate of interest is provided in the contract, the award of interest shall be at that rate.

SECTION 2. Tennessee Code Annotated, Section 9-8-307(e), is amended by deleting the first sentence and by substituting instead the following:

For a cause of action arising in tort, the state may only be liable for damages up to the sum of five hundred thousand dollars (\$500,000) per claimant or one million dollars

**\*03642781\***

03642781

**\*000549\***

\*00054958\*

(\$1,000,000) per occurrence. The state may only be liable for punitive damages up to the sum of one hundred thousand dollars (\$100,000) per occurrence. The claims commission may award reasonable costs arising out of the litigation to a claimant. Reasonable costs shall include reasonable and necessary court reporter expenses and expert witness fees for depositions and trials, and guardian ad litem fees. Attorney fees not otherwise provided by law shall not be awarded to a claimant.

SECTION 3. Tennessee Code Annotated, Section 9-8-307(a)(1), is amended by deleting the first sentence in its entirety and by substituting instead the following:

The circuit or chancery court in the county where the claim arose, sitting without a jury, and the commission or each commissioner sitting individually have exclusive jurisdiction to determine all monetary claims against the state falling within one (1) or more of the following categories:

SECTION 4. Tennessee Code Annotated, Section 9-8-307, is amended by adding a new subsection thereto, as follows:

( ) Notwithstanding any provision of law to the contrary, the state shall not be entitled to recover its costs for services rendered to a claimant who recovers actual or punitive damages from the state pursuant to this chapter if the cause of action arose out of the rendering of such services.

SECTION 5. This act shall take effect July 1, 1997, the public welfare requiring it.